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Attorneys for Defendant
PACIFIC CHOICE SEAFOOD, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THOMAS CARLSON,

Plaintiff,

vs.

VENTURE WEST, INC., *in personam*, and
F/V VENTURE WEST, Official No. 606361,
its engines, tackle, apparel, furniture, etc., *in*
rem, and PACIFIC
CHOICE SEAFOOD, INC., *in personam*,

Defendants.

) CASE NO. 04-5309 PJH (MEJ)

)
) **STIPULATION AND [PROPOSED]**
) **ORDER VACATING DATES AND**
) **SETTING A DEADLINE TO**
) **DISMISS CASE IN LIGHT OF**
) **EXECUTORY SETTLEMENT**

1 Plaintiff THOMAS CARLSON and Defendants, VENTURE WEST, INC., and
 2 PACIFIC CHOICE SEAFOOD, INC., hereby submit the following stipulation and
 3 proposed order vacating all existing dates and setting a deadline in which the parties shall
 4 submit a final dismissal of the action in light of the executory settlement that has been
 5 negotiated:

6 **RECITALS**

7 WHEREAS this action is set to commence trial on October 30, 2006, and the
 8 following pre-trial dates have also been set by order of the Court:

9 Pre-trial Conference: September 28, 2006

10 Last Date to File Pre-trial Conference

11 Statement and other pleadings August 28, 2006

12 WHEREAS there are two motions currently pending before the Court. The first is
 13 a Motion to Enforce the Settlement filed by Defendant PACIFIC
 14 CHOICE SEAFOOD, INC., which motion is set for hearing on August 30, 2006 at 9:00
 15 a.m. The second is a motion by Plaintiff's counsel to be relieved as counsel. That motion
 16 is currently noticed for hearing on September 13, 2006;

17 WHEREAS the parties have recently agreed to a complete settlement of the action
 18 pursuant to which Plaintiff has agreed to and has signed a settlement agreement and
 19 release. The original settlement agreement and release has been tendered to Defendants
 20 and Plaintiff is awaiting payment of the settlement monies to him; and

21 WHEREAS the parties expect that the settlement will be funded within the next
 22 ten days thus completing the settlement,

23 **STIPULATION**

24 WHEREFORE, the parties, by and through their respective counsel of record,
 25 hereby stipulate, in light of the pending settlement, that the Court be respectfully
 26 requested to enter an order:

27 1. Vacating all current dates in the case, including the trial date, the Pre-trial
 28

Conference date, the deadline to submit any and all pre-trial statements or other pleadings, and the hearing dates on the motion to enforce settlement filed by Defendant PACIFIC CHOICE SEAFOOD, INC., and the motion to be relieved as counsel filed by Plaintiff's attorneys of record; and

2. Setting a deadline for the parties to submit a proposed order of dismissal within thirty (30) days.

IT IS SO STIPULATED.

Dated: August 28, 2006

BANNING MICKLOW BULL & LOPEZ LLP

By: /s/ Kurt Micklow

KURT MICKLOW
Attorneys for Plaintiff
THOMAS CARLSON

Dated: August 28, 2006

GIBSON ROBB & LINDH, LLP

By: /s/ G. Geoffrey Robb

G. GEOFFREY ROBB
Attorneys for Defendants
VENTURE WEST, INC. and F/V VENTURE
WEST

Dated: August 28, 2006

CLAPP, MORONEY, BELLAGAMBA and
VUCINICH

By: /s/ Jeffrey M. Vucinich

JEFFREY M. VUCINICH
Attorneys for Defendants
PACIFIC CHOICE SEAFOOD, INC.

ORDER

PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED. The Parties shall file a Stipulation and Proposed Order of Dismissal on or before September 29, 2006.

Dated: August 30, 2006

THE HONORABLE PHYLLIS J. HAMILTON
UNITED STATES DISTRICT JUDGE

